

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DUCKWEED, USA, INC.,

Plaintiff,

v.

RUDOLPH BEHRENS,
EDWARD ABRAHAM,
JOSEPH KEARNEY and
B.E.A.R. OCEANICS,

Defendants.

CIVIL ACTION

No. 15-5387

ORDER

AND NOW, this 30th day of March, 2016, upon consideration of Defendant, Edward Abraham's ("Abraham") Motion to Dismiss (Doc. No. 15), the Response in Opposition filed by Plaintiff, Duckweed, USA, Inc. ("Duckweed"), and the supplemental briefing submitted by the parties regarding Duckweed's standing to sue for patent infringement, it is hereby **ORDERED** that the Motion is **GRANTED IN PART** and **DENIED IN PART**.

IT IS FURTHER ORDERED that:

1. Duckweed has standing to bring Count I – Patent Infringement.
2. Abraham's Motion to Dismiss Duckweed's civil conspiracy claim based upon the alleged breach of the license agreement in Count V is **GRANTED** for failure to state a claim. Count V is **DIMSISSED**.
3. At this early stage of the litigation, the following allegations against Abraham in the Complaint have facial plausibility: Patent Infringement (Count I); Tortious Interference with Existing Contract (Count III); Aiding

and Abetting Breach of Fiduciary Duty (Count VII); and Civil Conspiracy to Breach Fiduciary Duties (Count VIII). Consequently, Abraham's Motion to Dismiss these claims is **DENIED**.

4. Duckweed has no objection to the dismissal of its claim for Aiding and Abetting Breach of License Agreement (Count IV). As a result, Abraham's Motion to Dismiss regarding Count IV - Aiding and Abetting Breach of License Agreement is **GRANTED**. Count IV - Aiding and Abetting Breach of License Agreement is **DISMISSED**.

BY THE COURT:

/s/ Robert F. Kelly
ROBERT F. KELLY
SENIOR JUDGE